

OKLAHOMA NATIONAL GUARD
TECHNICIAN PERSONNEL REGULATION
792

EMPLOYEE ASSISTANCE
PROGRAM

1 JULY 1997

EMPLOYEE ASSISTANCE PROGRAM

This publication provides for the implementation and guidance of an employee assistance program for employees of the Oklahoma Army and Air National Guard who have or suspect they may have problems effecting their job performance. The problem areas may be caused by, but are not limited to the following: Drug or alcohol abuse, emotional instability, financial, marital or other personal problems.

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This Regulation supersedes OMD TPR 792, dated 1 July 1987.

CHAPTER 1

GENERAL

1-1. REFERENCES:

- a. 5 CFR PART 792
- b. FPM CHAPTER 792, subchapters 5 & 6 c. FPM supplement 792-2
- d. PL 91-616
- e. PL 92-255
- f. AR 600-85
- g. AFR 30-2

1-2. **PURPOSE:** To implement within the Oklahoma National Guard a program designed to provide assistance to employees having problems related to alcohol or drug abuse primarily, but can also assist with other personal problems.

1-3. **APPLICABILITY:** This program applies to all Federal Technicians (excepted and competitive) as well as their family members.

1-4. PROGRAM GUIDELINES:

a. The Oklahoma Military Department realizes that personal problems can and do affect the health, well being and work performance of most people at some time in their lives. In an effort to help employees maintain healthy levels of emotional and physical well being, and to limit the effect of personal problems on job performance, this agency sponsors the Employee Assistance Program (EAP). The EAP is designed to help individuals who have personal problems that impair or have the potential to impair their work performance. These problems may be as diverse as alcohol or drug abuse, family or marital problems, or behavioral disorders that result in absenteeism or deteriorating job efficiency.

b. No employee will have his/her job security or promotional opportunities jeopardized by requesting assistance, except as limited by Title 11, Section 201 (2) Public Law 91-616, Section 413 (2) Public Law 92-255.

c. Records pertaining to counseling and treatment will be maintained in a confidential manner.

d. The use of sick leave is authorized for treatment of alcohol or drug abuse, but the employee is responsible for the cost of treatment. The Federal Health Benefits Program may provide full or partial payment of these costs.

e. The EAP deals with two categories of referrals:

1. Self-referrals occur at the employee's own initiative. The employee, recognizing a possible need for assistance, consults with the EAPC before job performance becomes an issue. No feedback is given to supervision under this type of referral.

2. Administrative referrals are initiated by supervisors. When they recognize serious performance problems, supervisors can refer an employee to the EAP. Supervisors are given feedback about the employee's level of cooperation in dealing with personal problems that may be causing poor performance.

CHAPTER 2

EMPLOYEE RESPONSIBILITIES

2-1. An employee may obtain assistance by volunteering for referral directly, through their supervisor, the Employee Assistance Program Coordinator, chaplain, physician or labor organization representative.

2-2. Regardless of acceptance of referral by employee, it is the employee's responsibility to correct any documented job performance deficiencies.

CHAPTER 3

SUPERVISOR RESPONSIBILITIES

3-1. Problems that affect work performance are a legitimate concern at the Oklahoma Military Department. One of your functions as a supervisor is to identify performance by employees and take whatever corrective action is called for. Your early identification and your referral of the employee to help can result in improved job performance and help the individual to a more productive life.

3-2. Not all attendance or performance problems, however, should be referred to the EAP. The program does not intend to preempt a supervisor's or Employee Relation's responsibilities in these cases. A referral should only be made in cases where poor or inconsistent job performance continues after supervisory action. The program should be looked at, not as a disciplinary method, but as another option or tool for supervisors to use in correcting difficult - performance problems.

3-3. The EAP is not designed to make diagnosticians or detectives out of supervisors. The program relies on your managerial skills and ability to discuss evidence of poor job performance with your subordinates. When no apparent job-related issues seem to be causing poor job performance, you may request that the employee contact the EAP for consultation. As a supervisor, you should be alert to the need for help by noting changes in usual output, or changes in behavior patterns.

3-4. There are five basic procedures or processes you need to be skilled in when considering the referral of an individual to the EAP. You should:

a. **OBSERVE.** Changes in employee behavior can signify that individuals have personal concerns that are interfering with their work performance. Examples you can watch for include

1. Decreased productivity, unacceptable work, or impaired decision making ability;
2. mood changes, inappropriate emotional outbursts, or uncharacteristic anger or belligerence;
3. Unusual absenteeism or tardiness, unscheduled vacations, excessive sick leave, or repeated tardiness
4. Frequent or prolonged absences from the work area;
5. More personal phone calls;
6. Changes in habits, deterioration in personal appearance, or unreliability; and
7. Preoccupation with personal problems, taking with co-workers about problems, or confiding in a supervisor.

b. **DOCUMENT:** When faced with declining or erratic performance, the supervisor must document observable, verifiable facts. Complete, accurate documentation is essential when dealing with an employee with a performance problem. Good documentation helps the supervisor:

1. Avoid counseling the employee on personal problems. A troubled employee will often try to draw you into accepting excuses for behavior.
2. Provide objective, factual information. It shows the job performance picture over a period of time.
3. Set the stage. It shows the employee that you are serious about the situation.
4. Support corrective action process. Documentation is a necessity if you discipline an employee.
5. Be objective, fair, and consistent.

c. **PREPARE:** When deteriorating performance or unfavorable changes have been observed, the supervisors' options to assist the employee include:

1. Discussing performance difficulties with the individual before the difficulties become serious enough to involve higher supervision of Human Resources. The individual should be told about the availability of the EAP and offered the EAP in writing (See Appendix D).
2. Discussing the matter with your immediate supervisor or Human Resources personnel, particularly before discussing it for a second time with the employee.
3. Contacting the EAP directly to discuss the advisability and procedures for referral.

NOTE: The supervisor should keep in mind that his/her primary objective is not to determine the employee's underlying problem. The objective should be to advise the employee of the specifics of his or her poor performance and to get agreement on the method to obtain improved future performance.

d. **CONF'FRONT:** The supervisor should schedule a private discussion to advise the employee that:

1. Corrective action must be taken for unacceptable work behavior.
2. Assistance is available through the EAP if emotional or other personal problems are contributing to the unacceptable performance.
3. Further steps may be taken if the employee's performance does not improve in a reasonable time.

NOTE: It is important that the supervisor be:

- (a) specific about the behavior referred to when discussing job performance.
- (b) consistent in the evaluation of all employees reporting to him/her.
- (c) fair by referring only to job performance, not some suspected personal problems; and
- (d) firm and clear about what improvement is expected in job performance.

e. **FOLLOW-UP:** After the initial performance discussion with the employee, and after advising the individual of the availability of the EAP, the supervisor should continue to observe and document performance. If the employee's job performance has not improved in a reasonable time, it is possible that the underlying cause is a significant personal problem - such as a severe family difficulty, an undiagnosed or untreated health condition, or an emotional disturbance. Another interview should be scheduled.

Before the second interview, the employee's work record should be reviewed. The employee should be told what work problems must be corrected, stressing that his/her job may be in jeopardy. It is important to emphasize your concern for the employee's well being, as well as the seriousness of the problem. The supervisor should contact the Employee Assistance Program Coordinator (EAPC) to discuss appropriate referral procedures or arrange for a consultation.

CHAPTER 4

EMPLOYEE ASSISTANCE COORDINATOR RESPONSIBILITIES

4-1. The EAPC is responsible for effective implementation of the Employee Assistance Program and will:

- a. Arrange for training of supervisors, in areas such as recognition and advisement of troubled employees and supervisor responsibilities.
- b. Provide current EAP-related educational material as needed in a timely basis
- c. Serve as advisor and source of information and guidance for supervisors in administering the EAP.
- d. In conjunction with HRO, provide counseling and referral service information during orientation of newly employed technicians and AGR personnel.
- e. Develop a counseling/referral program, using community resources for those requiring these services.
- f. Establish liaison with community education, counseling, medical, social services, treatment and rehabilitation facilities to which employees may be referred.

4-2. The EAPC, with the help of the supervisor, will explain to the employee the confidential nature of this service, and that the professional, diagnostic, or rehabilitative cost is the responsibility of the employee.

4-3. After explanation of the program, the EAPC will have the employee complete a statement to the effect that the program has been explained, they understand that this is a confidential service and that costs are the responsibility of the employee.

4-4. The EAPC, with the supervisor's assistance, will obtain the documents required for the release of any records needed to monitor progress/employee participation and to make determination concerning sick leave, etc.

CHAPTER 5

RECORDS AND REPORTS

5-1. Supervisory documentation of employee job performance and actions taken to motivate correction of deficiencies will be filed in the supervisor's work folder. Supervisor's notes are not subject to the requirements of confidentiality regulations, since supervisors, as such, are not performing a diagnostic function. If a supervisor refers an employee to the EAPC for referral, the supervisor is not entitled to details of the employee's progress unless the EAPC obtains written consent from the employee.

5-2. Documentation of referrals for assistance will not be made in the supervisor's work folder not maintained in the Official Personnel Folder. Information on employees who have been referred or who have requested referral for assistance will be maintained in a secure room, a locked file cabinet, safe, or similar container, when not in use.

5-3. EAPC will assign a case number to all files dealing with employees utilizing the EAP to ensure the confidential nature of the program.

5-4. Statistical Reports

- a. The EAPC will compile statistical data to provide a basis for evaluating the extent of problems and the effectiveness of the program.
- b. A report will be submitted to National Guard Bureau and to the Office of Personnel Management annually. Reporting requirements will be established in an annual FPM Bulletin.
- c. Care will be taken that these reports are purely statistical and do not identify individuals.

CHAPTER 6

DISCLOSURE

6-1. Federal Employees:

a. Applicability and Coverage

(1) The confidentiality regulations attempt to strike a balance between the recognized need for privacy and anonymity on the part of those who obtain treatment and other values that conflict with the achievement of this goal. They are applicable to Federal alcoholism and drug abuse programs and in most cases, to community resources utilized by Federal programs (See FPM Supplement 792-2).

(2) The law requires that information relating to the identity, diagnosis, prognosis or treatment of any patient, which is maintained in connection with an alcohol or drug abuse prevention function, is confidential and may be released only under such circumstances and for such purposes as authorized by the Act.

(3) Two types of disclosure information are covered by the regulation: (1) disclosure with patient consent (subparagraph c), and (2) disclosure without patient consent (subparagraph d), including disclosure by court order.

(4) As a general rule, information covered by the regulation is confidential. It may only be disclosed as authorized in the regulations.

b. Communication not constituting Disclosure: The following types of communication do not constitute disclosure of records:

(1) Communication of information within a program between or among personnel having a need for such information in connection with their duties. Generally this would include communication among medical or health personnel, counselors, program coordinators, and program administrators.

(2) Communications between a program and qualified service organization of information needed by the organization to perform its services to the program. Some examples of service organizations would be (a) a consortium which has contracted to offer diagnostic, rehabilitative and referral services for employees, and (b) a laboratory performing urinalysis services.

(3) Communication of information which included neither patient identifying information, identifying numbers, nor symbols assigned by the program to patients i.e., the annual report to the Office of Personnel Management.

c. Disclosure Without Consent: Whether or not the patient gives his/her written consent, the content of the record may be disclosed:

(1) To medical personnel to the extent necessary to meet a bona fide medical emergency.

(2) To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluations, but such personnel may not identify, directly or indirectly, an individual patient in any report of such research, audit, or evaluation, or otherwise disclose patient identities in any manner.

(3) If authorized by an appropriate order of the court, of competent jurisdiction granted after application showing good cause thereof

d. Disclosure with Consent

(1) Circumstances in which disclosure may be made with the patient's consent. These circumstances are described in the following sections of the Confidentiality regulations:

- Section 2.33 - Diagnosis, treatment and rehabilitation
- 2.34 - Prevention of certain multiple enrollments
- 2.35 - Legal counsel for patient
- 2.36 - Patient's family and others
- 2.37 - Third party payers and funding sources
- 2.38 - Employers and employment agencies
- 2.39 - Criminal justice system
- 2.40 - Situations not otherwise provided for

(2) Form of Consent. Appendixes B and C contain sample formats for the release and re-release of information.

6-2. AGR Personnel: Disclosure of information pertaining to AGR personnel is contained in AR 600-85 and AFR 30-2.

CHAPTER 7

AGR PERSONNEL

7-1. Normally treatment and rehabilitation for alcoholism and drug abuse for personnel on AGR tours will be handled through programs and facilities at active installations.

7-2. Postponement of adverse actions and length of time authorized for rehabilitation of AGR personnel will be governed by provisions of AR 600-85 and AFR 30-2.

7-3. Treatment and disclosure records will be as outlined in AR 600-85.

7-4. Referral for treatment will be made via the EAPC with coordination with the AGR manager and/or supervisor.

Appendix A

CERTIFICATE OF UNDERSTANDING

I, _____, certify that the Oklahoma National Guard Employee Assistance Program has been explained to me. I understand that it is a confidential service designed to provide assistance to full-time employees (Federal) whose job performance is or may be adversely affected by any of the following: Alcohol/drug; family/marital; health/emotional; financial/legal.

I also have been advised that should I receive assistance, the professional, diagnostic or rehabilitative cost will be my responsibility, via personal finance or insurance. Personnel on active duty or with Veterans Administration (VAS) benefits will have access to active component or VA services.

Participant's Signature

Supervisor/Counseling Officer

Appendix B

REQUEST FOR AND CONSENT TO RELEASE CLIENT/ENVLOYEE INFORMATION

I, _____ authorize _____ to the following information below: (Specify extent or nature of information to be disclosed)

The purpose or need for which information is to be used (i.e., monitor progress/employee participation, make determinations concerning sick leave, etc.)

Authorization: I certify that this request has been made freely, voluntarily, and without coercion and that the information given above is accurate and to the best of my knowledge. This consent for disclosure may be revoked by me any time except to the extent that action has been taken in reliance thereon. This consent, unless expressly revoked earlier, expires _____ (usually 6 months or after satisfactory completion of EAP Program.)

Signature of Client/Employee _____ Date _____

Signature of Witness _____ Date _____

NOTE: THE INFORMATION REQUESTED ON THIS PROGRAM IS SOLICITED PURSUATNT TO PUBLIC LAW 93-282 FEDERAL REGULATIONS (42 CFR Part 2). THE EXECUTION OF THIS FORM DOES NOT AUTHORIZE RELEASE OF INFORMATION OTHER THAN THAT SPECIFICALLY DESCRIBED ABOVE.

1 July 1997

OMD TPR 792

Appendix C

SUBJECT: Release of Employee Information

FROM:

TO:

In accordance with the attached "Consent for Release of Employee Information", we have released information to on _____ .

This information has been disclosed to you from records whose confidentiality is protected by Federal Law. Federal Regulations (42 CFR Part 2) prohibit you from making any further disclosure of it or as otherwise permitted by such regulations. A general authorization for the release of medical or other information IS NOT sufficient for this program.

Employee Assistance Program Coordinator

Appendix D

Offer of Employee Assistance Program

1. As a supervisor, it is my responsibility to monitor the job performance and conduct of employees. When an employee is not performing satisfactorily or his/her behavior causes concern, it is my responsibility to assist the employee in identifying and correcting the problem.

2. I've noticed that you have had difficulty getting along with other employees. Due to the number of incidents that have occurred over the past 15 months, I feel the problem warrants immediate attention.

3. You are a valuable employee and I would like to assist you in correcting this problem. The agency has an Employee Assistance Program (EAP) designed to help individuals overcome problems affecting job performance and/or behavior. I think this program might be of benefit to you, therefore, I would like to make it available at this time.

4. Please indicate your decision below by placing your signature in the appropriate space:

Yes, I would like to participate in the
Employee Assistance Program.

No, I would not like to participate in the
Employee Assistance Program

5. Point of contact for the Employee Assistance Program is CW4 Ronald Petty (405) 228-5274. Please get back with me when you know the date and time of your appointment.

Users of this publication are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) to this Department, ATTN: OKHRO-EEO.

FOR THE COMMANDER IN CHIEF:

A handwritten signature in black ink, appearing to read 'S. Cortright', with a stylized flourish at the end.

STEPHEN P. CORTRIGHT
Major General, OKANG
The Adjutant General